

REMARKS

The present amendment is being filed under a Certificate of Mailing as indicated. An appropriate Petition for Extension of Time accompanies this Amendment and is also filed under a Certificate of Mail. A Declaration of Michael Jones under 37 C.F.R. § 1.132 is also filed herewith.

The subject application has been made subject to a restriction requirement by the Examiner. The restriction has been made for Inventions I) for claims 1-7 and 10-20 drawn to an acetabular cup and method and Invention II) for claims 9-20 drawn to a punch tool. Applicants respectfully affirm their telephonic election of Claims 1-7 and 10-20 without traverse.

The drawings were objected to under 35 CFR 1.84(p)(5) as failing to show reference elements mentioned in the description. Figure 1 has been amended to include reference number 76 and its associated leader line. Applicants attach amended Figure 1. The attached sheet replaces the original Figure 1. The objection to the drawings under 35 CFR 1.84(p)(5) as failing to show reference elements mentioned in the description is now believed to be

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overcome. The removal of the objection to the drawings under 35 CFR 1.84(p)(5) is hereby requested.

The specification was objected to because of informalities. The Office Action states that on page 9, paragraph 5, line 4, liner "40" should be liner "30". The paragraph beginning at page 9, line 27, has been replaced to change liner "40" to liner "30".

The objection to the specification because of informalities is now believed to be overcome. The removal of the objection to the specification because of informalities is hereby requested.

Claim 1 was objected to because of informalities. The Office Action states that in claim 1, line 1 "A" should be "An". Claim 1 has been amended to replace the word "A" with the word "An" as suggested by the Examiner.

The objection to claim 1 because of informalities is now believed to be overcome. The removal of the objection to claim 1 because of informalities is hereby respectfully requested.

Claims 1, 2, 4, 6, 7, 10, 11, 13, 14, 15, 18, 19 and 20 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent 5,370,702 to Jones.

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Referring first to the rejection to claims 1, 2, 4, 6 and 7, claim 1 has been amended to provide "said cup having spaced apart concave and convex surfaces, said cup further having a wall and a bottom defining a recess extending from one of the concave and convex surfaces, the bottom being defined by a substantially planar surface extending over substantially all of the bottom."

The bottom of recesses 14 in U.S. Patent 5,370,702 is not defined by a substantially planar surface extending over substantially all of the bottom as claimed in claim 1, as amended.

Claim 1, as amended, is thus, not anticipated by U.S. Patent 5,370,702. The rejection to claim 1 as being anticipated by U.S. Patent 5,370,702 is thereby believed to be overcome.

Claims 2, 4, 6 and 7 are dependent on newly amended claim 1, and are thus believed to be allowable over U.S. Patent 5,370,702.

Reconsideration of the rejection under 35 USC §102(b) to claims 1, 2, 4, 6 and 7 as being anticipated by U.S. Patent 5,370,702 is respectfully requested.

Referring now to the rejection to claims 10, 11, 13 and 14, claim 10 has been amended to provide that "said cup having spaced apart concave and convex surfaces, said cup further having a wall and a bottom defining a recess extending from one of the concave

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and convex surfaces, the wall defining a void in said cup having a constant cross section from one of the concave and convex surfaces to the bottom, a portion of said cup adjacent the recess having a reduced thickness". The wall of recesses 14 in U.S. Patent 5,370,702 does not have a constant cross section from one of the concave and convex surfaces to the bottom as claimed in claim 10, as amended.

Claim 10 as amended is thus not anticipated by U.S. Patent 5,370,702. The rejection to claim 10 as being anticipated by U.S. Patent 5,370,702 is thereby believed to be overcome.

Claims 11, 13 and 14 are dependent on newly amended claim 10, and are thus believed to be allowable over U.S. Patent 5,370,702.

Reconsideration of the rejection under 35 USC §102(b) to claims 10, 11, 13 and 14 as being anticipated by U.S. Patent 5,370,702 is respectfully requested.

Referring now to the rejection to claims 15, 18 and 19, claim 15 has been amended to provide that "said cup having spaced apart concave and convex surfaces, said cup further having a first wall and a first bottom defining a first recess extending from one of the concave and convex surfaces, said cup further having a second wall and a second bottom defining a second recess extending from

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the other of one of the concave and convex surfaces, the first bottom and the second bottom being substantially planar and spaced apart from each other, a portion of said cup adjacent the recess having a reduced thickness".

The recesses 14 in U.S. Patent 5,370,702 does not have a first bottom and the second bottom being substantially planar and spaced apart from each other as claimed in claim 15 as amended.

Claim 15 as amended is thus not anticipated by U.S. Patent 5,370,702. The rejection to claim 15 as being anticipated by U.S. Patent 5,370,702 is thereby believed to be overcome.

Claims 18 and 19 are dependent on newly amended claim 15, and are thus believed to be allowable over U.S. Patent 5,370,702.

Reconsideration of the rejection under 35 USC §102(b) to claims 15, 18 and 19 as being anticipated by U.S. Patent 5,370,702 is respectfully requested.

Referring now to the rejection under 35 USC §102(b) to claim 20, claim 20 has been amended to provide the steps of "providing a cup having spaced apart concave and convex surfaces, the cup further having a wall and a bottom defining a recess extending from one of the concave and convex surfaces, the bottom being defined by a substantially planar surface extending over

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substantially all of the bottom; providing a punch; and removing of one of the mounting portions by placing the punch against the bottom of the recess and advancing the punch to form an opening through the cup".

The recesses 14 in U.S. Patent 5,370,702 do not have a bottom being defined by a substantially planar surface extending over substantially all of the bottom" as claimed in claim 20 as amended.

Claim 20 as amended is thus not anticipated by U.S. Patent 5,370,702. The rejection to claim 20 as being anticipated by U.S. Patent 5,370,702 is thereby believed to be overcome.

Reconsideration of the rejection under 35 USC §102(b) to claim 20 as being anticipated by U.S. Patent 5,370,702 is respectfully requested.

Claims 3, 5, 12, 16 and 17 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,370,702 to Jones.

Referring first to the rejection to claims 3 and 5, claim 1 has been amended to provide "said cup having spaced apart concave and convex surfaces, said cup further having a wall and a bottom defining a recess extending from one of the concave and convex surfaces, the bottom being defined by a substantially planar

surface extending over substantially all of the bottom." The bottom of recesses 14 in U.S. Patent 5,370,702 is not defined by a substantially planar surface extending over substantially all of the bottom as claimed in claim 1, as amended, nor does it teach or suggest such a construction.

Claim 1, as amended, is thus, not obvious over U.S. Patent 5,370,702.

Claims 3 and 5 are dependent on newly amended claim 1, and are thus believed to be allowable over U.S. Patent 5,370,702.

Reconsideration of the rejection under 35 §103(a) to claims 3 and 5 as being unpatentable over U.S. Patent 5,370,702 is respectfully requested.

Referring now to the rejection under 35 §103(a) to claim 12, claim 10 has been amended to provide that "said cup having spaced apart concave and convex surfaces, said cup further having a wall and a bottom defining a recess extending from one of the concave and convex surfaces, the wall defining a void in said cup having a constant cross section from one of the concave and convex surfaces to the bottom, a portion of said cup adjacent the recess having a reduced thickness". The wall of recesses 14 in U.S. Patent 5,370,702 does not have a constant cross section from the said one

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of the concave and convex surfaces to the bottom as claimed in claim 10, as amended, nor does it teach or suggest such a construction.

Claim 10, as amended, is thus, not obvious over U.S. Patent 5,370,702.

Claim 12 which is dependent on newly amended claim 10 is thus believed to be patentable over U.S. Patent 5,370,702.

Reconsideration of the rejection under 35 §103(a) to claim 12 as being unpatentable over U.S. Patent 5,370,702 is respectfully requested.

Referring now to the rejection to claims 16 and 17, claim 15 has been amended to provide that "said cup having spaced apart concave and convex surfaces, said cup further having a first wall and a first bottom defining a first recess extending from one of the concave and convex surfaces, said cup further having a second wall and a second bottom defining a second recess extending from the other of one of the concave and convex surfaces, the first bottom and the second bottom being substantially planar and spaced apart from each other, a portion of said cup adjacent the recess having a reduced thickness".

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The recesses 14 in U.S. Patent 5,370,702 do not have a first bottom and the second bottom being substantially planar and spaced apart from each other as claimed in claim 15, as amended, nor does it teach or suggest such a construction.

Claim 15, as amended, is thus, not obvious over U.S. Patent 5,370,702.

Claims 16 and 17 are dependent on newly amended claim 15, and are thus believed to be allowable over U.S. Patent 5,370,702.

Reconsideration of the rejection under 35 USC §103(a) to claims 16 and 17 as being unpatentable over U.S. Patent 5,370,702 is respectfully requested.

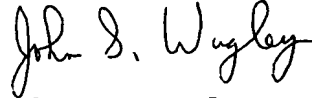
The rejections under 35 USC §102(b) and under 35 USC §103(a) to the claims are believed to be overcome and the removal of the rejections under 35 USC §102(b) and under 35 USC §103(a) to the claims is hereby requested.

For the above-described reasons it is respectfully submitted that the objection to the drawings, the specification and the claims, as well as, the rejections to claims which have not been cancelled have been overcome and that all of the claims of the present application which have not been cancelled, namely claims

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1-7 and 10-20 are currently in condition for allowance. Early
Notice of Allowance is respectfully requested.

Respectfully submitted,



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